

NTC
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CITY OF CAPE CORAL REQUEST FOR SOLE SOURCE OR SINGLE SOURCE PURCHASE

Requesting Department: Utilities Dept./Water Reclamation

Vendor Name: WesTech

Address: P.O BOX 65068 Salt Lake City, Utah 84165-0068

Phone: 801-265-1000 E-Mail: KMILNER@WESTECH-INC.com

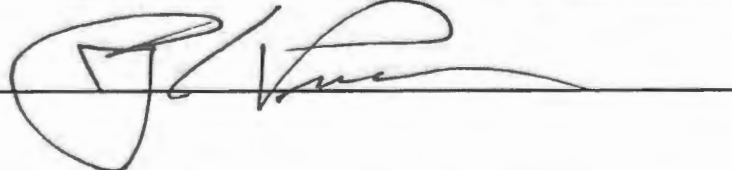
Price: \$141,947.00

Description of item to be procured: Parts and Service needed for Both Westech CleanFlo Rotary Screens

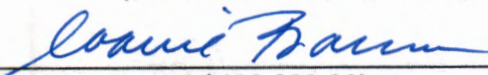
1.) Uniqueness of vendor's item/service. How is this vendor the only vendor uniquely qualified to provide the product or service: WesTech is the exclusive, sole-source manufacturer of the WesTech CleanFlo Rotoscreen and supplier of OEM replacement and repair parts.

2.) Market Research. Describe other, similar sources or products available in the market, if any, and why they are not acceptable: These custom engineered components of the system and the technology around them is considered proprietary to WesTech. In order to ensure the system continues to operate at peak performance and safety per design, these custom engineered components and service should be sole sourced procured directly from WesTech.

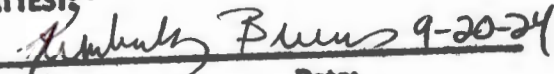
3.) Proposed Actions. Describe the actions the department will take to overcome the present barriers to competition for any future acquisition of this product or service: We will continue to stay informed of advancements in emerging and available components, processes, and equipment capable of meeting the needs of Utilities and the Community and include evaluations of different manufacturer's products as appropriate for future products.

Department Director's Signature: 

Approval: Procurement Manager _____
(not to exceed \$50,000.00)

Approval: City Manager  _____
(not to exceed \$100,000.00)

Council authorization required if exceeding \$100,000.00

ATTEST:  _____
Signature: _____ Date: 9-20-24
Kimberly Bryns, CMC - City Clerk

WESTECH QUOTATION

WESTECH	P.O. BOX 65068 SALT LAKE CITY, UTAH 84165-0068	Phone: 801-265-1000 Fax: 801-265-1080	Quotation No. QUO-03237-M8T1X4
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Thank you for the opportunity to quote you with your equipment needs.
Please review the following and contact us to place an order or ask any questions.

Date: 8/27/2024	Oppty #: 2492188	Ship Via: BW
RFQ No.: 46609-146330	Master Job No.: 21909A	Freight: FSP-PPA
Quoted By: Joy ALLEN	Prime Name: Cape Coral Southwest WWTP	Lead Time: 77 days
Phone: +1 (801) 290-1878	Equipment: CleanFlo™ Rotoscreen	Quote Valid: 30 days
Email: JALLEN@westech-inc.com	Payment Terms: NET30	

Bill To:	City of Cape Coral Marcus Papp 1015 Cultural Park Boulevard Cape Coral, FL 33990 US	Ship To:	City of Cape Coral Marcus Papp 3310 SW 20th Ave Cape Coral, FL 33914 US
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Tel/Cell: 239-848-6927	Tel/Cell: 239-848-6927
Email: Mpapp@capecoral.gov	Email: Mapppp@capecoral.gov

Item Line	Item No.	Part/Dwg Number	Description	Qty	Units	Unit Price	Net Price
Parts for Cleanflo Rotoscreen to repair screen with field service							
	POS 2		BEARING INSERT	4	EA	\$1,690.00	\$6,760.00
	POS 9		BOLT RETAINING PLATE	2	EA	\$80.00	\$160.00
	POS 14		UPPER LIFTING RING	2	EA	\$1,760.00	\$3,520.00
	POS 17		SPROCKET 1"	4	EA	\$955.00	\$3,820.00
	POS 18		CRANK PIN	4	EA	\$180.00	\$720.00
	POS 23		CHAIN TENSIONER	2	EA	\$28.00	\$56.00
	POS 44		MOVABLE SPACER STRIP	4	EA	\$726.00	\$2,904.00
	POS 55		CLAMP SLEEVE W/SCREW	4	EA	\$207.00	\$828.00
	POS 62		GAS SPRING FOR CHAIN TENSIONER	2	EA	\$292.00	\$586.00
	POS 74		LOCK WASHER FOR CRANK PIN	4	EA	\$54.00	\$216.00
	POS 76		SCREW M6S M20X60	16	EA	\$35.00	\$560.00
	POS 76		NUT LOCKING M20 A4-80	16	EA	\$8.00	\$128.00
	POS 77		SCREW M6S M20	16	EA	\$9.00	\$144.00
	POS 78		SCREW M6S M6X8	4	EA	\$1.00	\$4.00
	POS 79		SCREW M6X10 A4	4	EA	\$1.00	\$4.00
	POS 80		BOLT FOR CRANK PIN M6S M20X1,5	4	EA	\$20.00	\$80.00
	POS 87 + 88		SCREW MC6S M8	4	EA	\$3.00	\$12.00
	POS 87 + 88		PLAIN WASHER RB M8 A4	4	EA	\$1.00	\$4.00
	POS 90		LOCKING NUT M8 A4	4	EA	\$1.00	\$4.00
			Field service For Installation	1.00		\$16,000.00	\$16,000.00

No sales, GST, PST, use, or other taxes have been included in our pricing. No discounts accepted.

Quoted in US Dollars

Grand Total

\$36,510.00

- Please see the attached General Terms and Conditions and Warranty Information.
- Minimum Order amount is US \$100.
- All information provided with and including this proposal is considered proprietary and is not for distribution without express written consent of WesTech Engineering LLC.
- WesTech prefers that payments under \$3,000 are processed by Credit Card. Any orders over \$10,000 can not be accepted by Credit Card and will be invoiced at terms. This is to include freight and taxes. A processing fee of up to 4 percent on Credit Cards may be added where allowed by law.

This Quotation is subject to all specifications above as well as all attachments included with this document.

Thank you again for your quote request!

Best Regards,

Joy ALLEN

General Terms of Sales

Quotation No: QUO-03237-M8T1X4

Terms and Conditions appearing in any order based on this proposal which are inconsistent herewith shall not be binding on WesTech Engineering, LLC. The sale and purchase of equipment described herein shall be governed exclusively by the foregoing proposal and the following provisions:

1. SPECIFICATIONS: WesTech Engineering, LLC is furnishing its standard equipment as outlined in the proposal and as will be covered by final approved drawings. The equipment may not be in strict compliance with the Engineer's/Owner's plans, specifications, or addenda as there may be deviations. The equipment will, however, meet the general intention of the mechanical specifications of these documents.

2. ITEMS INCLUDED: This proposal includes only the equipment specified herein and does not include erection, installation, accessories, nor associated materials such as controls, piping, etc., unless specifically listed.

3. PARTIES TO CONTRACT: WesTech Engineering, LLC is not a party to or bound by the terms of any contract between WesTech Engineering, LLC's customer and any other party. WesTech Engineering, LLC's undertakings are limited to those defined in the contract between WesTech Engineering, LLC and its direct customers.

4. PRICE AND DELIVERY: All selling prices quoted are subject to change without notice after 30 days from the date of this proposal unless specified otherwise. Unless otherwise stated, all prices are F.O.B. WesTech Engineering, LLC or its supplier's shipping points. All claims for damage, delay or shortage arising from such equipment shall be made by Purchaser directly against the carrier. When shipments are quoted F.O.B. job site or other designation, Purchaser shall inspect the equipment shipped, notifying WesTech Engineering, LLC of any damage or shortage within forty-eight hours of receipt, and failure to so notify WesTech Engineering, LLC shall constitute acceptance by Purchaser, relieving WesTech Engineering, LLC of any liability for shipping damages or shortages.

5. PAYMENTS: All invoices are net 30 days. Delinquencies are subject to a 1.5 percent service charge per month or the maximum permitted by law, whichever is less on all past due accounts. Pro rata payments are due as shipments are made. If shipments are delayed by the Purchaser, invoices shall be sent on the date when WesTech Engineering, LLC is prepared to make shipment and payment shall become due under standard invoicing terms. If the work to be performed hereunder is delayed by the Purchaser, payments shall be based on the purchase price and percentage of completion. Products held for the Purchaser shall be at the risk and expense of the Purchaser. Unless specifically stated otherwise, prices quoted are for equipment only. These terms are independent of and not contingent upon the time and manner in which the Purchaser receives payment from the owner.

6. PAYMENT TERMS: Credit is subject to acceptance by WesTech Engineering, LLC's Credit Department. If the financial condition of the Purchaser at any time is such as to give WesTech Engineering, LLC, in its judgment, doubt concerning the Purchaser's ability to pay, WesTech Engineering, LLC may require full or partial payment in advance or may suspend any further deliveries or continuance of the work to be performed by the WesTech Engineering, LLC until such payment has been received.

7. ESCALATION: If between the proposal date and actual procurement and through no fault of the Seller, the relevant cost of labor, material, freight, tariffs, and other Seller costs combined relating to the contract, increase by greater than 2.5% of the overall contract price, then the contract price shall be subject to escalation and increased. Such increase shall be verified by documentation and the amount of contract price escalation shall be calculated as either the actual increased cost to the Seller or, if agreed by the Parties, the equivalent increase of a relevant industry recognized third-party index, and in both cases without any additional profit or margin being added.

8. APPROVAL: If approval of equipment submittals by Purchaser or others is required, a condition precedent to WesTech Engineering, LLC supplying any equipment shall be such complete approval.

9. INSTALLATION SUPERVISION: Prices quoted for equipment do not include installation supervision. WesTech Engineering, LLC recommends and will, upon request, make available, at WesTech Engineering, LLC's then current rate, an experienced installation supervisor to act as the Purchaser's employee and agent to supervise installation of the equipment. Purchaser shall at its sole expense furnish all necessary labor equipment, and materials needed for installation.

Responsibility for proper operation of equipment, if not installed by WesTech Engineering, LLC or installed in accordance with WesTech Engineering, LLC's instructions, and inspected and accepted in writing by WesTech Engineering, LLC, rests entirely with Purchaser; and any work performed by WesTech Engineering, LLC

personnel in making adjustment or changes must be paid for at WesTech Engineering, LLC's then current per diem rates plus living and traveling expenses.

WesTech Engineering, LLC will supply the safety devices described in this proposal or shown in WesTech Engineering, LLC's drawings furnished as part of this order but excepting these, WesTech Engineering, LLC shall not be required to supply or install any safety devices whether required by law or otherwise. The Purchaser hereby agrees to indemnify and hold harmless WesTech Engineering, LLC from any claims or losses arising due to alleged or actual insufficiency or inadequacy of the safety devices offered or supplied hereunder, whether specified by WesTech Engineering, LLC or Purchaser, and from any damage resulting from the use of the equipment supplied hereunder.

10. ACCEPTANCE OF PRODUCTS: Products will be deemed accepted without any claim by Purchaser unless written notice of non-acceptance is received by WesTech Engineering, LLC within 30 days of delivery if shipped F.O.B. point of shipment, or 48 hours of delivery if shipped F.O.B. point of destination. Such written notice shall not be considered received by WesTech Engineering, LLC unless it is accompanied by all freight bills for said shipment, with Purchaser's notations as to damages, shortages and conditions of equipment, containers, and seals. Non-accepted products are subject to the return policy stated below.

11. TAXES: Any federal, state, or local sales, use or other taxes applicable to this transaction, unless specifically included in the price, shall be for Purchaser's account.

12. TITLE: The equipment specified herein, and any replacements or substitutes therefore shall, regardless of the manner in which affixed to or used in connection with realty, remain the sole and personal property of WesTech Engineering, LLC until the full purchase price has been paid. Purchaser agrees to do all things necessary to protect and maintain WesTech Engineering, LLC's title and interest in and to such equipment; and upon Purchaser's default, WesTech Engineering, LLC may retain as liquidated damages any and all partial payments made and shall be free to enter the premises where such equipment is located and remove the same as its property without prejudice to any further claims on account of damages or loss which WesTech Engineering, LLC may suffer from any cause.

13. INSURANCE: From date of shipment until the invoice is paid in full, Purchaser agrees to provide and maintain at its expense, but for WesTech Engineering, LLC's benefit, a adequate insurance including, but not limited to, builders risk insurance on the equipment against any loss of any nature whatsoever.

14. SHIPMENTS: Any shipment of delivery dates recited represent WesTech Engineering, LLC's best estimate but no liability, direct or indirect, is assumed by WesTech Engineering, LLC for failure to ship or deliver on such dates.

WesTech Engineering, LLC shall have the right to make partial shipments; and invoices covering the same shall be due and payable by Purchaser in accordance with the payment terms thereof. If Purchaser defaults in any payment when due hereunder, WesTech Engineering, LLC may, without incurring any liability therefore to Purchaser or Purchaser's customers, declare all payments immediately due and payable with maximum legal interest thereon from due date of said payment, and at its option, stop all further work and shipments until all past due payments have been made, and/or require that any further deliveries be paid for prior to shipment. If Purchaser requests postponements of shipments, the purchase price shall be due and payable upon notice from WesTech Engineering, LLC that the equipment is ready for shipment; and thereafter any storage or other charge WesTech Engineering, LLC incurs on account of the equipment shall be for the Purchaser's account.

If delivery is specified at a point other than WesTech Engineering, LLC or its supplier's shipping points, and delivery is postponed or prevented by strike, accident, embargo, or other cause beyond WesTech Engineering, LLC's reasonable control and occurring at a location other than WesTech Engineering, LLC or its supplier's shipping points, WesTech Engineering, LLC assumes no liability in delivery delay. If Purchaser refuses such delivery, WesTech Engineering, LLC may store the equipment at Purchaser's expense. For all purposes of this agreement such tender of delivery or storage shall constitute delivery.

15. WARRANTY: WesTech Engineering, LLC warrants equipment it supplies only in accordance with the attached WesTech Warranty. This warranty is expressly given by WesTech and accepted by purchaser in lieu of all other warranties whether written, oral, express, implied, statutory or otherwise, including without limitation, warranties of merchantability and fitness for particular purpose. WesTech neither accepts nor authorizes any other person to assume for it any other liability with respect to its equipment. WesTech shall not be liable for normal wear and tear, corrosion, or any contingent, incidental, or consequential damage or expense due to partial or

General Terms of Sales

Quotation No: QUO-03237-M8T1X4

complete inoperability of its equipment for any reason whatsoever. The purchaser's exclusive and only remedy for breach of this warranty shall be the repair and or replacement of the defective part or parts within a reasonable time of WesTech's accepting the validity of a warranty claim made by the purchaser.

16. PATENTS: WesTech Engineering, LLC agrees that it will, at its own expense, defend all suits or proceedings instituted against Purchaser and pay any award of damages assessed against it in such suits or proceedings, so far as the same are based on any claim that the said equipment or any part thereof constitutes an infringement of any apparatus patent of the United States issued at the date of this Agreement, provided WesTech Engineering, LLC is given prompt notice in writing of the institution or threatened institution of any suit or proceeding and is given full control of the defense, settlement, or compromise of any such action; and Purchaser agrees to give WesTech Engineering, LLC needed information, assistance, and authority to enable WesTech Engineering, LLC so to do. In the event said equipment is held or conceded to infringe such a patent, WesTech Engineering, LLC shall have the right at its sole option and expense to a) modify the equipment to be noninfringing, b) obtain for Purchaser the license to continue using said equipment, or c) accept return of the equipment and refund to the Purchaser the purchase price thereof less a reasonable charge for the use thereof. WesTech Engineering, LLC will reimburse Purchaser for actual out-of-pocket expenses, exclusive of legal fees, incurred in preparing such information and rendering such assistance at WesTech Engineering, LLC's request. The foregoing states the entire liability of WesTech Engineering, LLC, with respect to patent infringement; and except as otherwise agreed to in writing, WesTech Engineering, LLC assumes no responsibility for process patent infringement.

17. SURFACE PREPARATION AND PAINTING: If furnished, shop primer paint is intended to serve only as minimal protective finish. WesTech Engineering, LLC will not be responsible for the condition of primed or finish painted surfaces after equipment leaves its shops. Purchasers are invited to inspect paint in shops for proper preparation and application prior to shipment. WesTech Engineering, LLC assumes no responsibility for field surface preparation or touch-up of shipping damage to paint. Painting of fasteners and other touchup to painted surfaces will be by Purchaser's painting contractor after mechanism installation. Motors, gear motors, and other components not manufactured by WesTech Engineering, LLC will be painted with that manufacturer's standard paint system. It is WesTech Engineering, LLC's intention to ship major steel components as soon as fabricated, often before drive, motors, and other manufactured components. Unless Purchaser can ensure that shop primed steel shall be field painted within thirty (30) days after arrival at the job site, WesTech Engineering, LLC encourages the Purchaser to order these components without primer. WesTech Engineering, LLC's prices are based on paints and surface preparations as outlined in the main body of this proposal. In the event that an alternate paint system is selected, WesTech Engineering, LLC requests that Purchaser's order advise of the paint selection. WesTech Engineering, LLC will then either adjust the price as may be necessary to comply or ship the material unpainted if compliance is not possible due to application problems or environmental controls.

18. CANCELLATION, SUSPENSION, OR DELAY: After acceptance by WesTech Engineering, LLC, this proposal, or Purchaser's order based on this proposal, shall be a firm agreement and is not subject to cancellation, suspension, or delay except upon payment by Purchaser of appropriate charges which shall include all costs incurred by WesTech Engineering, LLC to date of cancellation, suspension, or delay plus a reasonable profit. Additionally, all charges related to storage and/or resumption of work, at WesTech Engineering, LLC's plant or elsewhere, shall be for Purchaser's sole account; and all risks incidental to storage shall be assumed by Purchaser.

19. FORCE MAJEURE: Neither party hereto shall be liable to the other for default or delay in delivery caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, act of government, pandemic, delay of carriers, failure of normal sources of supply, complete or partial shutdown of plant by reason of inability to attain sufficient raw materials or power, and/or other similar contingency beyond the reasonable control of the respective parties. The time for delivery specified herein shall be extended during the continuance of such conditions, or any other cause beyond such party's reasonable control. Escalation resulting from a Force Majeure event shall be equitably adjusted per the escalation policy stated above.

20. RETURN OF PRODUCTS: No products may be returned to WesTech Engineering, LLC without WesTech Engineering, LLC's prior written permission. Said permission may be withheld by WesTech Engineering, LLC at its sole discretion.

21. BACKCHARGES: WesTech Engineering, LLC will not approve or accept backcharges for labor, materials, or other costs incurred by Purchaser or others in modification, adjustment, service, or repair of WesTech Engineering, LLC furnished materials unless

such back charge has been authorized in advance in writing by a WesTech Engineering, LLC purchase order, or work requisition signed by WesTech Engineering, LLC.

22. INDEMNIFICATION: Purchaser agrees to indemnify WesTech Engineering, LLC from all costs incurred, including but not limited to court costs and reasonable attorney fees, from enforcing any provisions of this contract, including but not limited to breach of contract or costs incurred in collecting monies owed on this contract.

23. ENTIRE AGREEMENT: This proposal expresses the entire agreement between the parties hereto superseding any prior understandings, and is not subject to modification except by a writing signed by an authorized officer of each party. **24. MOTORS AND MOTOR DRIVES:** In order to avoid shipment delays of WesTech Engineering, LLC equipment, motors and drives may be sent directly to the job site for installation by the equipment installer. Minor fit-up may be required. **25. EXTENDED STORAGE:** Extended storage instructions will be part of information provided to shipment. If equipment installation and start-up is delayed more than 30 days, the provisions of the storage instructions must be followed to keep WARRANTY in force. **26. LIABILITY:** Professional liability insurance, including but not limited to, errors and omissions insurance, is not included. In any event, liability for errors and omissions shall be limited to the lesser of \$100,000 USD or the value of the particular piece of equipment (not the value of the entire order) supplied by WesTech Engineering, LLC against which a claim is sought. **27. ARBITRATION NEGOTIATION:** Any controversy or claim arising out of or relating to the performance of any contract resulting from this proposal or contract issued, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered to any court having jurisdiction.

ACCEPTED BY PURCHASER

Customer Name: _____

Customer Address: _____

Contact Name: _____

Contact Phone: _____

Contact Email: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____

WESTECH QUOTATION

WESTECH	P.O. BOX 65068 SALT LAKE CITY, UTAH 84165-0068	Phone: 801-265-1000 Fax: 801-265-1080	Quotation No. QUO-03203-L9K9L1
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Thank you for the opportunity to quote you with your equipment needs.
Please review the following and contact us to place an order or ask any questions.

Date: 8/21/2024	Oppty #: 2492187	Ship Via: BW	
RFQ No.: 46609-146330	Master Job No.: 21909A	Freight: FSP-PPA	
Quoted By: Joy ALLEN	Prime Name: Cape Coral Southwest WWTP	Lead Time: 70 days	
Phone: +1 (801) 290-1878	Equipment: CleanFlo™ Rotoscreen	Quote Valid: 30 days	
Email: JALLEN@westech-inc.com	Payment Terms: NET30		

Bill To: City of Cape Coral	Ship To: City of Cape Coral
Marcus Papp 1015 Cultural Park Boulevard Cape Coral, FL 33990 US	Marcus Papp 3310 SW 20th Ave Cape Coral, FL 33914 US

Tel/Cell:	Tel/Cell: 239-848-6927
Email:	Email: Mpapp@capecoral.gov

Item Line	Item No.	Part/Dwg Number	Description	Qty	Units	Unit Price	Net Price
			Cleanflo Rotoscreen RS35-110-5 Build Year 2013 CapeCoral, FL				
	POS 2		BEARING INSERT	4	EA	\$1690.00	\$6760.00
	POS 9		BOLT RETAINING PLATE	2	EA	\$80.00	\$160.00
	POS 14		UPPER LIFTING RING	2	EA	\$1760.00	\$3520.00
	POS 17		SPROCKET 1"	4	EA	\$955.00	\$3820.00
	POS 18		CRANK PIN	4	EA	\$180.00	\$720.00
	POS 23		CHAIN TENSIONER2	2	EA	\$28.00	\$56.00
	POS 44		MOVABLE SPACER STRIP	4	EA	\$726.00	\$2904.00
	POS 51		BRUSH FOR CHAIN LUBRICATOR	2	EA	\$350.00	\$700.00
	POS 55		CLAMP SLEEVE W/SCREW	4	EA	\$207.00	\$828.00
	POS 60		CHAIN 1"	2	EA	\$700.00	\$1400.00
	POS 61		CHAINLOCK 1"	2	EA	\$28.00	\$56.00
	POS 62		GAS SPRING FOR CHAIN TENSIONER	2	EA	\$292.00	\$586.00
	POS 64		AXLE BEARING	4	EA	\$827.00	\$3309.00
	POS 65		BEARING	4	EA	\$700.00	\$2800.00
	POS 74		LOCK WASHER FOR CRANK PIN	4	EA	\$54.00	\$216.00
	POS 76		SCREW M6S M20	16	EA	\$35.00	\$560.00
	POS 76		NUT LOCKING M6S M20	16	EA	\$8.00	\$128.00
	POS 77		SCREW M6S M16	16	EA	\$9.00	\$144.00
	POS 78		SCREW M6S M6	4	EA	\$1.00	\$4.00
	POS 79		SCREW MFS M6	4	EA	\$1.00	\$4.00
	POS 80		BOLT FOR CRANK PIN M6S M20X1,5	4	EA	\$20.00	\$80.00

POS 87+88	SCREW MC6S M8	4	EA	\$3.00	\$12.00
POS 87 +88	PLAIN WASHER RB M8 A4	4	EA	\$1.00	\$4.00
POS 90	LOCKING NUT M8 A4	4	EA	\$1.00	\$4.00
	Field Service for installation	1.00		\$32,500.00	\$32,500.00

No sales, GST, PST, use, or other taxes have been included in our pricing. No discounts accepted.

Quoted in US Dollars

Grand Total

\$61,275.00

- Please see the attached General Terms and Conditions and Warranty Information.
- Minimum Order amount is US \$100.
- All information provided with and including this proposal is considered proprietary and is not for distribution without express written consent of WesTech Engineering LLC.
- WesTech prefers that payments under \$3,000 are processed by Credit Card. Any orders over \$10,000 can not be accepted by Credit Card and will be invoiced at terms. This is to include freight and taxes. A processing fee of up to 4 percent on Credit Cards may be added where allowed by law.

This Quotation is subject to all specifications above as well as all attachments included with this document.

Thank you again for your quote request!

Best Regards,

Joy ALLEN

General Terms of Sales

Quotation No: QUO-03203-L9K9L1

Terms and Conditions appearing in any order based on this proposal which are inconsistent herewith shall not be binding on WesTech Engineering, LLC. The sale and purchase of equipment described herein shall be governed exclusively by the foregoing proposal and the following provisions:

- 1. SPECIFICATIONS:** WesTech Engineering, LLC is furnishing its standard equipment as outlined in the proposal and as will be covered by final approved drawings. The equipment may not be in strict compliance with the Engineer's/Owner's plans, specifications, or addenda as there may be deviations. The equipment will, however, meet the general intention of the mechanical specifications of these documents.
- 2. ITEMS INCLUDED:** This proposal includes only the equipment specified herein and does not include erection, installation, accessories, nor associated materials such as controls, piping, etc., unless specifically listed.
- 3. PARTIES TO CONTRACT:** WesTech Engineering, LLC is not a party to or bound by the terms of any contract between WesTech Engineering, LLC's customer and any other party. WesTech Engineering, LLC's undertakings are limited to those defined in the contract between WesTech Engineering, LLC and its direct customers.
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- 7. ESCALATION:** If between the proposal date and actual procurement and through no fault of the Seller, the relevant cost of labor, material, freight, tariffs, and other Seller costs combined relating to the contract, increase by greater than 2.5% of the overall contract price, then the contract price shall be subject to escalation and increased. Such increase shall be verified by documentation and the amount of contract price escalation shall be calculated as either the actual increased cost to the Seller or, if agreed by the Parties, the equivalent increase of a relevant industry recognized third-party index, and in both cases without any additional profit or margin being added.
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Responsibility for proper operation of equipment, if not installed by WesTech Engineering, LLC or installed in accordance with WesTech Engineering, LLC's instructions, and inspected and accepted in writing by WesTech Engineering, LLC, rests entirely with Purchaser; and any work performed by WesTech Engineering, LLC

personnel in making adjustment or changes must be paid for at WesTech Engineering, LLC's then current per diem rates plus living and traveling expenses.

WesTech Engineering, LLC will supply the safety devices described in this proposal or shown in WesTech Engineering, LLC's drawings furnished as part of this order but excepting these, WesTech Engineering, LLC shall not be required to supply or install any safety devices whether required by law or otherwise. The Purchaser hereby agrees to indemnify and hold harmless WesTech Engineering, LLC from any claims or losses arising due to alleged or actual insufficiency or inadequacy of the safety devices offered or supplied hereunder, whether specified by WesTech Engineering, LLC or Purchaser, and from any damage resulting from the use of the equipment supplied hereunder.

10. ACCEPTANCE OF PRODUCTS: products will be deemed accepted without any claim by Purchaser unless written notice of non-acceptance is received by WesTech Engineering, LLC within 30 days of delivery if shipped F.O.B. point of shipment, or 48 hours of delivery if shipped F.O.B. point of destination. Such written notice shall not be considered received by WesTech Engineering, LLC unless it is accompanied by all freight bills for said shipment, with Purchaser's notations as to damages, shortages and conditions of equipment, containers, and seals. Non-accepted products are subject to the return policy stated below.

11. TAXES: Any federal, state, or local sales, use or other taxes applicable to this transaction, unless specifically included in the price, shall be for Purchaser's account.

12. TITLE: The equipment specified herein, and any replacements or substitutes hereof shall, regardless of the manner in which affixed to or used in connection with realty, remain the sole and personal property of WesTech Engineering, LLC until the full purchase price has been paid. Purchaser agrees to do all things necessary to protect and maintain WesTech Engineering, LLC's title and interest in and to such equipment; and upon Purchaser's default, WesTech Engineering, LLC may retain as liquidated damages any and all partial payments made and shall be free to enter the premises where such equipment is located and remove the same as its property without prejudice to any further claims on account of damages or loss which WesTech Engineering, LLC may suffer from any cause.

13. INSURANCE: From date of shipment until the invoice is paid in full, Purchaser agrees to provide and maintain at its expense, but for WesTech Engineering, LLC's benefit, adequate insurance including, but not limited to, builders risk insurance on the equipment against any loss of any nature whatsoever.

14. SHIPMENTS: Any shipment of delivery dates recited represent WesTech Engineering, LLC's best estimate but no liability, direct or indirect, is assumed by WesTech Engineering, LLC for failure to ship or deliver on such dates.

WesTech Engineering, LLC shall have the right to make partial shipments; and invoices covering the same shall be due and payable by Purchaser in accordance with the payment terms thereof. If Purchaser defaults in any payment when due hereunder, WesTech Engineering, LLC may, without incurring any liability therefore to Purchaser or Purchaser's customers, declare all payments immediately due and payable with maximum legal interest thereon from due date of said payment, and at its option, stop all further work and shipments until all past due payments have been made, and/or require that any further deliveries be paid for prior to shipment. If Purchaser requests postponements of shipments, the purchase price shall be due and payable upon notice from WesTech Engineering, LLC that the equipment is ready for shipment; and thereafter any storage or other charge WesTech Engineering, LLC incurs on account of the equipment shall be for the Purchaser's account.

If delivery is specified at a point other than WesTech Engineering, LLC or its supplier's shipping points, and delivery is postponed or prevented by strike, accident, embargo, or other cause beyond WesTech Engineering, LLC's reasonable control and occurring at a location other than WesTech Engineering, LLC or its supplier's shipping points, WesTech Engineering, LLC assumes no liability in delivery delay. If Purchaser refuses such delivery, WesTech Engineering, LLC may store the equipment at Purchaser's expense. For all purposes of this agreement such tender of delivery or storage shall constitute delivery.

15. WARRANTY: WesTech Engineering, LLC warrants equipment it supplies only in accordance with the attached WesTech Warranty. This warranty is expressly given by WesTech and accepted by purchaser in lieu of all other warranties whether written, oral, express, implied, statutory or otherwise, including without limitation, warranties of merchantability and fitness for particular purpose. WesTech neither accepts nor authorizes any other person to assume for it any other liability with respect to its equipment. WesTech shall not be liable for normal wear and tear, corrosion, or any contingent, incidental, or consequential damage or expense due to partial or

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complete inoperability of its equipment for any reason whatsoever. The purchaser's exclusive and only remedy for breach of this warranty shall be the repair and or replacement of the defective part or parts within a reasonable time of WesTech's accepting the validity of a warranty claim made by the purchaser.

16. PATENTS: WesTech Engineering, LLC agrees that it will, at its own expense, defend all suits or proceedings instituted against Purchaser and pay any award of damages assessed against it in such suits or proceedings, so far as the same are based on any claim that the said equipment or any part thereof constitutes an infringement of any apparatus patent of the United States issued at the date of this Agreement, provided WesTech Engineering, LLC is given prompt notice in writing of the institution or threatened institution of any suit or proceeding and is given full control of the defense, settlement, or compromise of any such action; and Purchaser agrees to give WesTech Engineering, LLC needed information, assistance, and authority to enable WesTech Engineering, LLC so to do. In the event said equipment is held or conceded to infringe such a patent, WesTech Engineering, LLC shall have the right at its sole option and expense to a) modify the equipment to be noninfringing, b) obtain for Purchaser the license to continue using said equipment, or c) accept return of the equipment and refund to the Purchaser the purchase price thereof less a reasonable charge for the use thereof. WesTech Engineering, LLC will reimburse Purchaser for actual out-of-pocket expenses, exclusive of legal fees, incurred in preparing such information and rendering such assistance at WesTech Engineering, LLC's request. The foregoing states the entire liability of WesTech Engineering, LLC, with respect to patent infringement; and except as otherwise agreed to in writing, WesTech Engineering, LLC assumes no responsibility for process patent infringement.

17. SURFACE PREPARATION AND PAINTING: If furnished, shop primer paint is intended to serve only as minimal protective finish. WesTech Engineering, LLC will not be responsible for the condition of primed or finish painted surfaces after equipment leaves its shops. Purchasers are invited to inspect paint in shops for proper preparation and application prior to shipment. WesTech Engineering, LLC assumes no responsibility for field surface preparation or touch-up of shipping damage to paint. Painting of fasteners and other touchup to painted surfaces will be by Purchaser's painting contractor after mechanism installation. Motors, gear motors, and other components not manufactured by WesTech Engineering, LLC will be painted with that manufacturer's standard paint system. It is WesTech Engineering, LLC's intention to ship major steel components as soon as fabricated, often before drive, motors, and other manufactured components. Unless Purchaser can ensure that shop primed steel shall be field painted within thirty (30) days after arrival at the job site, WesTech Engineering, LLC encourages the Purchaser to order these components without primer. WesTech Engineering, LLC's prices are based on paints and surface preparations as outlined in the main body of this proposal. In the event that an alternate paint system is selected, WesTech Engineering, LLC requests that Purchaser's order advise of the paint selection. WesTech Engineering, LLC will then either adjust the price as may be necessary to comply or ship the material unpainted if compliance is not possible due to application problems or environmental controls.

18. CANCELLATION, SUSPENSION, OR DELAY: After acceptance by WesTech Engineering, LLC, this proposal, or Purchaser's order based on this proposal, shall be a firm agreement and is not subject to cancellation, suspension, or delay except upon payment by Purchaser of appropriate charges which shall include all costs incurred by WesTech Engineering, LLC to date of cancellation, suspension, or delay plus a reasonable profit. Additionally, all charges related to storage and/or resumption of work, at WesTech Engineering, LLC's plant or elsewhere, shall be for Purchaser's sole account; and all risks incidental to storage shall be assumed by Purchaser.

19. FORCE MAJEURE: Neither party hereto shall be liable to the other for default or delay in delivery caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, act of government, pandemic, delay of carriers, failure of normal sources of supply, complete or partial shutdown of plant by reason of inability to attain sufficient raw materials or power, and/or other similar contingency beyond the reasonable control of the respective parties. The time for delivery specified herein shall be extended during the continuance of such conditions, or any other cause beyond such party's reasonable control. Escalation resulting from a Force Majeure event shall be equitably adjusted per the escalation policy stated above.

20. RETURN OF PRODUCTS: No products may be returned to WesTech Engineering, LLC without WesTech Engineering, LLC's prior written permission. Said permission may be withheld by WesTech Engineering, LLC at its sole discretion.

21. BACKCHARGES: WesTech Engineering, LLC will not approve or accept backcharges for labor, materials, or other costs incurred by Purchaser or others in modification, adjustment, service, or repair of WesTech Engineering, LLC furnished materials unless

such back charge has been authorized in advance in writing by a WesTech Engineering, LLC purchase order, or work requisition signed by WesTech Engineering, LLC.

22. INDEMNIFICATION: Purchaser agrees to indemnify WesTech Engineering, LLC from all costs incurred, including but not limited to court costs and reasonable attorney fees, from enforcing any provisions of this contract, including but not limited to breach of contract or costs incurred in collecting monies owed on this contract.

23. ENTIRE AGREEMENT: This proposal expresses the entire agreement between the parties hereto superseding any prior understandings, and is not subject to modification except by a writing signed by an authorized officer of each party. **24. MOTORS AND MOTOR DRIVES:** In order to avoid shipment delays of WesTech Engineering, LLC equipment, motors and drives may be sent directly to the job site for installation by the equipment installer. Minor fit-up may be required. **25. EXTENDED STORAGE:** Extended storage instructions will be part of information provided to shipment. If equipment installation and start-up is delayed more than 30 days, the provisions of the storage instructions must be followed to keep WARRANTY in force. **26. LIABILITY:** Professional liability insurance, including but not limited to, errors and omissions insurance, is not included. In any event, liability for errors and omissions shall be limited to the lesser of \$100,000 USD or the value of the particular piece of equipment (not the value of the entire order) supplied by WesTech Engineering, LLC against which a claim is sought. **27. ARBITRATION NEGOTIATION:** Any controversy or claim arising out of or relating to the performance of any contract resulting from this proposal or contract issued, or the breach thereof, shall be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered to any court having jurisdiction.

ACCEPTED BY PURCHASER

Customer Name: _____

Customer Address: _____

Contact Name: _____

Contact Phone: _____

Contact Email: _____

Signature: _____

Printed Name: _____

Title: _____

Date: _____